Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of	)	
	)	
Access Charge Reform	)	CC Docket No. 96-262
	)	
Transport Rate Structure and Pricing	)	CC Docket No. 91-213
	)	

THIRD REPORT AND ORDER

Adopted: November 26, 1997 **Released: November 26, 1997**

By the Commission:

I. INTRODUCTION

1. In this Order, we act on specific proposals made in the *Further Notice*[1] regarding allocation of incumbent LEC costs attributable to general purpose computers and other general support facilities (GSF). For price cap local exchange carriers (LECs), we adopt changes to our Part 69 cost allocation rules and require reductions in those carriers' price cap indices (PCIs) to ensure that regulated access rates do not recover GSF costs related to nonregulated billing and collection services.[2]

II. GENERAL SUPPORT FACILITIES ALLOCATION

A. Background

2. An incumbent LEC may use general purpose computers to provide nonregulated billing and collection (B&C) services. The Commission's rules applicable to the investment and expense associated with that equipment, however, do not cause the incumbent LEC to allocate any of that B&C investment and expense to the incumbent LEC's nonregulated billing and collection operation. Specifically, Class A companies record general purpose computer investment in Account 2124 (General purpose computers). Account 2124, along with the other Class A accounts for GSF

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[1] Access Charge Reform, CC Docket No. 96-262; Price Cap Performance Review for Local Exchange Carriers, CC Docket No. 94-1; Transport Rate Structure and Pricing, CC Docket No. 91-213; End User Common Line Charges, CC Docket No. 95-72, First Report and Order, FCC 97-158 (rel. May 16, 1997), paras. 1-396, 419-463 (*Access Charge Reform Order*) and paras. 397-418 (*Further Notice), recon.*, 12 FCC Rcd 10119 (1997), and Second Order on Reconsideration and Memorandum Opinion and Order, FCC 97-368 (rel. Oct. 9, 1997).

[2] Billing and collection, in this context, refers to the services provided by LECs to interexchange carriers (IXCs) whereby the former bills and collects from end users for services provided to those end users by the IXCs. *See* Detariffing of Billing and Collection Services, CC Docket No. 85-88, 102 F.C.C. 2d 1150, 1151 n.2 (1986) *recon. denied,* 1 FCC Rcd 445 (1986). These LEC billing and collection services are "nonregulated" in that these services are not subject to regulation as common carrier services under Part I, Title II, of the Communications Act. For accounting purposes, the Commission initially treats these billing and collection costs as regulated and relies on the Part 69 cost allocation rules to exclude the nonregulated portion of these costs from rates for regulated services. Separation of Costs of Regulated Telephone Service from Costs of Nonregulated Activities, CC Docket No. 86-111, 2 FCC Rcd 1298, 1309 (1987) (*Joint Cost Order). See also, Further Notice*, para. 410 n.604.

investments, is included in summary Account 2110 (Land and support assets). Part 69 of the Rules requires LECs to allocate investment in Account 2110 among the B&C category, the interexchange category, and the access elements in accordance with the allocation of network plant investment to those categories and elements.[3] Because no network plant investment is allocated to the nonregulated B&C category, no part of Account 2110 -- and thus no part of a LEC's investment in general purpose computers and other support assets -- is allocated to that category.

3. Nonregulated billing and collection expenses associated with general purpose computers have been similarly misallocated. Where an incumbent LEC uses such computers to provide nonregulated billing and collection services, an appropriate portion of the expenses recorded in Account 6124 (General purpose computers expense) should be allocated to the B&C category. Because Account 6124 is allocated in the same manner as Account 2124, however, no such portion of this expense is allocated to the B&C category.

4. The *Further Notice* noted that costs allocated to the interstate billing and collection category by price cap LECs were estimated to be approximately $480 million.[4] It also noted AT&T's estimate that $124 million of costs recovered by LECs from interstate access charges support the nonregulated billing and collection category.[5] On the basis of such estimates and other record information, the Commission tentatively concluded that price cap incumbent LECs' general purpose computer costs attributable to their nonregulated billing and collection activities should not be recovered through their regulated access charges and requested comment on this tentative conclusion.[6]

5. The Commission sought comment on two options for reassigning an appropriate part of GSF investment and expense to the B&C category. Under the first option, the price cap LEC would conduct a special study of the uses of the general purpose computer assets recorded in Account 2124 to determine the percentage of investment in that account actually used for the LEC's billing and collection activities. That percentage, multiplied by the ratio of the dollar amount in Account 2124 to the dollar amount in Account 2110, would be applied to the interstate portion of Account 2110 to determine the amount of general purpose computer investment to be attributed to interstate billing and collection activities. The remainder of Account 2110 would be apportioned among the interexchange category and access elements using the current investment allocator. In addition, under this approach, part of the general purpose computer expenses recorded in Account 6124 would be assigned to interstate billing and collection activities in a similar manner.[7]

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3 Section 69.307(c) apportions certain LEC investments, including investment in general purpose computers and other land and support assets (Account 2110), among the B&C category, the interexchange category, and the access elements based on the amount of the following network plant investments previously allocated by that LEC to its Part 69 categories: Central Office Equipment investment, Cable and Wire Facilities investment, and Information Origination/Termination Equipment investment. 47 C.F.R. § 69.307(c).

4 *Further Notice*, para. 412 (*citing* 1996 ARMIS Report).

5 *Id.* at para. 411. Of this $124 million, AT&T estimated that $60.1 million is included in interstate switched access, and $20.5 million is in interstate special access, with the remainder recovered by the subscriber line charge.

6 *Id.* at para. 414.

7 *Id.* at para. 415.

6. Under the second option, the Commission would require use of a general expense allocator to apportion the interstate share of Account 2110 (Land and support assets) between: (1) the billing and collection category and (2) all other elements and categories. For this purpose, the Commission proposed to use the "Big Three Expense Factor" allocator,[8] excluding from the development of that allocator any account or portion of an account that is itself apportioned based on the apportionment of GSF.[9] Regarding GSF investment, any such investment in Account 2110 not allocated to the billing and collection category would then be apportioned among the access elements and the interexchange category using the current investment allocator. Regarding GSF expenses, the interstate portion of these expenses in Account 6120 would be apportioned among all elements and categories, including billing and collection, based upon the overall apportionment of GSF investment in Account 2110.[10]

7. The *Further Notice* contemplated that LECs would make appropriate downward exogenous cost adjustments in their price cap baskets to reflect the reallocation of GSF costs between services subject to price cap regulation and nonregulated billing and collection services.[11] The Commission sought comment on such adjustments as well as on its tentative conclusion that its proposed changes to the allocation of GSF investment should apply only to price cap LECs.

B. Scope of the problem and the need for a remedy

1. Comments

8. MCI claims the incumbent LECs reported over $800 million in billing and collection revenues in 1995. Because incumbent LECs continue to provide such extensive B&C services, MCI contends they continue to incur significant GSF costs in connection with such activities, and, under the current Part 69 rules, they continue to recover those costs through their regulated switched access

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8 The "Big Three Expenses" are the following combined expense groups: Plant Specific Operations Expense (Accounts 6110, 6120, 6210, 6220, 6230, 6310, and 6410), Plant Nonspecific Operations Expenses (Accounts 6510, 6530, and 6540), and Customer Operations Expenses (Accounts 6610 and 6620). The "Big Three Expense Factors" are calculated separately by each LEC as the ratio of (a) the sum of the Big Three Expenses apportioned to each element or category (*e.g.*, the B&C category) to (b) the sum of the combined Big Three Expenses. 47 C.F.R. § 69.2 (e) and (f). Thus, for a given LEC, the numerator in the ratio to be applied to a particular account would be the sum of the amounts allocated by that LEC from each of its Big Three Expenses to its nonregulated B&C category and the denominator would be the sum of its Big Three Expenses. The LEC then uses its Big Three Expense Factor to accomplish various allocations under Part 69.

9 Under Part 69, certain of the "Big Three Expenses" are apportioned on the basis of allocators that include GSF investment. To prevent that investment from having a disproportionate impact, these particular expense accounts are excluded from calculation of the proposed "Big Three Expense Factor" general allocator. Where expense accounts have been excluded to avoid such circularity, we refer to the mechanism as a "modified Big Three Expense Factor" general allocator.

10 Note that this option applies only to price cap incumbent LECs that provide interstate billing and collection using regulated assets. Other LECs that acquire billing and collection services from unregulated affiliates through affiliate transactions or from unaffiliated third parties would continue recording the expenses of acquiring such services in Account 6623 (Customer services). *See Further Notice* at para. 417.

11 *Further Notice*, para. 415.

rates.[12] Moreover, MCI claims that the effects of this misallocation of GSF costs have become more pronounced as a result of recent Commission changes to the separations rules.[13]

9. Frontier agrees the Commission should correct the anomaly in the existing allocation rules that results in the misallocation of certain GSF costs to regulated interstate access services.[14] Among incumbent LECs, U S West acknowledges that costs incurred in using regulated computer equipment to provide detariffed billing and collection services should be allocated properly.[15] AT&T adds that the LECs' "burdening" of regulated access with the costs of their nonregulated billing and collection activities is fundamentally inconsistent with the Commission's objective of ensuring "full cost separation" between regulated and nonregulated activities.[16]

10. Other commenters dispute the existence of a misallocation problem with the GSF costs attributable to LECs' nonregulated billing and collection activities. According to GTE, AT&T fails to consider the magnitude of non-billing related investments in the GSF account and the various accounting methods used by LECs to make the appropriate allocations to the billing and collection category.[17] BellSouth challenges the Commission's assumption that billing and collection costs currently are understated. To the contrary, BellSouth contends current Part 69 rules over-allocate rather than under-allocate costs to billing and collection category.[18] Thus, BellSouth contends there is "no evidence that, in total, the Part 69 rules do not allocate a reasonable share of interstate costs to billing and collection."[19] Additionally, BA/NYNEX claims that the LEC billing and collection category is declining in significance because IXCs increasingly provide their own billing and collection services. For example, BA/NYNEX contends that from 1990 to 1995 the net billing and collection revenues of RBOCs[20] and GTE declined by over 80 per cent from $240 million to $46

[12] MCI Comments at 10.

[13] MCI asserts that recent Commission changes to its separations rules led to an increase in the interstate portion of the LECs' Other Billing and Collection (OB&C) costs, which in turn resulted in an increase in the GSF investment and expense allocated to the interstate jurisdiction. As a result of this change in the separations rules, MCI claims that interstate access charges were increased by approximately $64 million. MCI Comments at 11 (*citing* Amendment of Part 36 of The Commission's Rules and Establishment of a Joint Board, CC Docket No. 80-286, Report and Order, FCC 97-30 (rel. Feb. 3, 1997) *recon. pending* (*OB&C Order*)).

[14] Frontier Comments at 5.

[15] U S West Comments at 4-5.

[16] AT&T Comments at 9 (*citing Joint Cost Order*, para. 370).

[17] GTE Comments at 7

[18] BellSouth Reply at 2. Though BellSouth claims its 1996 interstate billing and collection revenues ($68.3 million) were less than half of what they were in 1990 ($149.2 million), BellSouth contends its allocation of interstate billing and collection expenses has increased 28 per cent during the same period ($76.7 million in 1990 and $98.5 million in 1996). BellSouth Comments at 6 n.9.

[19] BellSouth Comments at 5.

[20] The Regional Bell Operating Companies (RBOCs) during the period 1990-1995 included Ameritech, Bell Atlantic, BellSouth, NYNEX, Pacific Telesis, SWB, and U S West.

million. On this basis, BA/NYNEX argues that the amount of general purpose computer costs associated with billing and collection is not significant and is likely to continue to decline in the future.[21] SWB argues there is no quantitative evidence that access charges are being unfairly burdened or that additional cost needs to be allocated to the billing and collection category.[22]

11. MCI asserts that BellSouth fails to cite any aspect of the Commission's Part 69 rules that compensates ratepayers for the under-allocation of GSF costs to the billing and collection category.[23] In response to the LECs' argument that the direct provision of such services by AT&T and other IXCs is reducing the extent of the LECs' billing and collection activities, MCI cites ARMIS data showing that the LECs' 1996 billing and collection revenues were $796.4 million, down only slightly from the 1995 figure of $809.9 million.[24] USTA claims MCI's billing and collection data are overstated because they include intrastate revenues. USTA provides a chart showing a decline in net interstate LEC billing and collection revenues of 84 per cent from 1990 to 1995.[25] BA/NYNEX also questions MCI's data on LEC billing and collection revenues and contends that the 1995 ARMIS 43-01 Reports show that the RBOCs plus GTE had only $576 million in interstate billing and collection revenues and that this figure represents a decrease of 37 per cent from the $937 million in interstate billing and collection revenues reported by them in 1990.[26]

12. GTE claims that, while AT&T, MCI, and Sprint support various changes to the GSF allocator, none of them offers any specific evidence of the magnitude of any cost misallocation or the potential impact of any such change. Rather, GTE asserts, they propose to burden LECs to remedy a conjectural harm.[27] AT&T responds that GSF costs are real costs that are improperly recovered through access charges and that such recovery is not consistent with the Commission's objective of ensuring full cost separation between regulated and nonregulated activities.[28]

13. Some commenters contend the Commission need not address these misallocation concerns because it has already addressed them in earlier proceedings. SWB contends the Commission released an order in 1988 rejecting similar allocation arguments by AT&T. According to SWB, the *Part 69 Conformance Reconsideration Order* was based upon a Commission determination that such a requirement would introduce "additional complexity" in order to solve a temporary

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[21] BA/NYNEX Comments at 2, 6 (*citing* 1990-1995 ARMIS 43-01 Reports). By "net revenue," we understand BA/NYNEX to refer to these carriers' revenues after expenses and taxes are taken into account. Accordingly, such net revenue figures provide a measure of these carriers' after tax earnings from these activities.

[22] SWB/PNB Reply at 2-3.

[23] MCI Reply at 2.

[24] *Id.* at 3 (*citing* Preliminary Statistics of Common Carriers, Table 2.9, Line No. 184).

[25] USTA Reply at 3.

[26] BA/NYNEX Reply at 3-4.

[27] GTE Reply at 4.

[28] AT&T Reply at 7-8.

problem of "uncertain magnitude."[29] BA/NYNEX adds that this reconsideration order characterized the misallocation problem as "temporary" because AT&T was in the process of replacing LEC billing and collection services with its own billing and collection mechanisms.[30] SWB claims that in 1996 the Commission released an order rejecting similar arguments by AT&T based upon a determination by the Commission that the added administrative costs for carriers would outweigh any benefits from improved accounting for their computer costs.[31]

14. USTA asserts that the Commission had, until release of the *Further Notice,* declined to change the GSF allocation because AT&T has been in the process of replacing LEC billing and collection services with its own billing mechanisms. According to USTA, the Commission has not justified any change in that prior determination.[32] MCI claims that the Commission's 1988 decision not to address such GSF allocation issues was based on an erroneous belief that these misallocation problems would diminish as IXCs took back additional B&C operations from the LECs.[33] MCI contends that, following the later conversion of some LECs to price cap regulation, these misallocation problems were not reduced by a decline in these LECs' provision of B&C services to IXCs. To the contrary, MCI claims, the misassigned costs associated with these B&C activities became embedded in these LECs' initial PCIs. Thus, to remove such misassigned costs from these LECs' current and future PCIs, MCI urges the Commission to require an immediate exogenous adjustment to these LECs' indices.[34]

15. Several commenters contend that, should the Commission find that misallocation problems exist, such problems should be addressed in other pending Commission proceedings. U S West notes that, in May 1997, MCI petitioned for reconsideration of the *OB&C Order* that required incumbent LECs to employ a fixed allocator to assign OB&C costs between jurisdictions. U S West urges the Commission to defer any decision on the allocation of GSF expense to the B&C category until it decides the issues raised in the MCI petition so that carriers can "stabilize" their interstate

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[29] SWB/PNB Comments at 3 (*citing* Amendment of Part 69 of the Commission's Rules and Regulations, Access Charges, to Conform It With Part 36 Jurisdictional Separations Procedures, CC Docket No. 87-313, 2 FCC Rcd 6447 (1987) (*Part 69 Conformance Order*), *recon.*, 4 FCC Rcd 765, 771, para. 43 (1988) (*Part 69 Conformance Reconsideration Order*) (together *Part 69 Conformance Orders*)).

[30] BA/NYNEX Comments at 5-6 (*citing Part 69 Conformance Reconsideration Order,* 4 FCC Rcd at 770 (para. 32)).

[31] SWB/PNB Comments at 3 (*citing* Amendment of Part 32, Uniform System of Accounts for Telecommunications Companies to Revise the Accounting for General Purpose Computer and Information Management Expenses, CC Docket No. 90-215, Report and Order Terminating Proceeding, 11 FCC Rcd 14277 (1996) (*Part 32 Computer Order*), para. 1).

[32] USTA Comments at 3-4. *Accord* CBT Comments at 2.

[33] MCI Comments at 11-12. MCI contends that under the former cost-of-service system, any change in GSF cost that resulted from a decline in the LECs' billing and collection operations would translate into a reduced revenue requirement for interstate access services. *Id.* at 12.

[34] MCI Comments at 12.

B&C business relationships.[35] BA/NYNEX opposes deferral of this proceeding on those grounds, contending that MCI's objections to the cost levels mandated by the *OB&C Order* have nothing to do with how costs are allocated among the interstate categories.[36]

16. USTA, BellSouth, CBT, and others claim no change in the current Part 69 allocation methodology is needed but that, if any such change is contemplated, it should not be undertaken on a piecemeal basis. Instead, these parties urge the Commission to examine this issue as part of a comprehensive review of the jurisdictional separations process to ensure that all implications are identified.[37] In response, MCI submits that the Telecommunications Act of 1996 requires immediate revision of Part 69 rules governing billing and collection and prohibits cross-subsidization of billing and collection with interstate access revenues. MCI also argues that the limited scope of the Commission's proposed rule change ensures that there is little risk that a new rule would skew the balance of comprehensive allocations or result in unintended consequences as some LECs fear.[38] AT&T states that there is no need to wait for future jurisdictional proceedings to address the GSF allocation problem because the Commission's reallocation proposals are confined to the interstate jurisdiction.[39]

2. Discussion

17. The data cited in the *Further Notice* and included in several comments disclose that the LEC allocation of nonregulated billing and collection costs attributable to general purpose computers and other support assets is a significant problem. Under our current rules, no portion of the costs of general purpose computers is assigned to the billing and collection category even though such computers are clearly used in that activity. We acknowledge that we have previously considered, but not corrected, this and related allocation problems in the *Part 69 Conformance Reconsideration Order* and the *Part 32 Computer Order*. We conclude, however, that these misallocations should not continue uncorrected and that neither the disposition of these earlier proceedings, our current consideration of the MCI petition for reconsideration of the *OB&C Order*, nor our recently-instituted separations reform proceeding,[40] justifies further delay in making these corrections.

18. In the *Part 69 Conformance Reconsideration Order*, we declined to adopt AT&T's allocation proposal because we found it would introduce additional complexity in order to solve what

[35] US West Comments at 5. *Accord* MCI Reply at 4.

[36] BA/NYNEX Reply at 8.

[37] USTA Comments at 4; Bell South Comments at 2, 5; CBT Comments at 2. *Accord* SWB/PNB Reply at 2; Ameritech Reply at 2.

[38] MCI Reply at 4.

[39] AT&T Reply at 7.

[40] Jurisdictional Separations Reform and Referral to the Federal-State Joint Board, CC Docket No. 80-286, Notice of Proposed Rulemaking, FCC 97-354 (rel. Oct. 7, 1997).

then appeared to be a temporary problem of uncertain magnitude.[41] The record in the current proceeding, however, demonstrates that, almost ten years later, billing and collection remains a significant LEC activity. The overall level of LEC nonregulated billing and collection activity has been declining but the decline has not been as dramatic as USTA contends.[42] In determining the magnitude of billing and collection activities of price cap LECs to determine if intervention on behalf of ratepayers is warranted to correct related cost misallocations, these LECs' total interstate operating revenues from billing and collection activities are more relevant than their net interstate billing and collection revenues. Indeed, the dramatic decrease in net revenues cited by USTA tells us nothing about the overall amount of billing and collection services provided or the amount of resources used to provide those services; it indicates only that the activity has become less profitable since 1990. The RBOCs and GTE report interstate billing and collection operating revenues of about $536 million and related operating expenses of about $439 million during 1996.[43] These recent revenue and expense figures support a finding that the LECs' billing and collection activities are significant, and, therefore, that a portion of the GSF costs associated with these activities properly should be allocated to the nonregulated billing and collection category.

19. The *Part 32 Computer Order* simply closed a long-inactive rulemaking docket in which the Commission had considered changing the manner in which general purpose computer expenses are recorded in the Part 32 accounts. Our decision not to adopt certain accounting changes in that proceeding because we found them too burdensome for carriers, particularly smaller carriers, does not prevent us from adopting, for interstate ratemaking purposes, a variation on the second option presented in the *Further Notice*. This variation is far less burdensome than the accounting changes contemplated in the earlier proceeding and, in the instant order, it is being applied only to price cap LECs using regulated assets to provide nonregulated billing and collection services.

20. In addition, we agree with BA/NYNEX that the Part 69 allocation concerns expressed in the *Further Notice* regarding the need to reallocate certain GSF costs to the billing and collection category are not related to the jurisdictional separations concerns raised in MCI's petition for reconsideration of the *OB&C Order*. The MCI petition seeks cancellation of a new Part 36 rule that requires incumbent LECs to apportion OB&C expenses using a fixed allocator, and reinstatement of an earlier version of this rule that would apportion such expenses based upon the time spent by each LEC billing for interstate and intrastate services.[44] While MCI's petition claims that Part 69 exacerbates the problems allegedly created by the new version of this Part 36 rule, we find that we

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[41] *Part 69 Conformance Reconsideration Order*, para. 43. Under AT&T's proposal on reconsideration, LECs would have been required to maintain records of their detariffed billing and collection expenses Accounts 6124 and 6724 and to directly assign those expenses to the billing and collection category. *Id.*, para. 36. Thus, the AT&T proposal considered and rejected in that Order is comparable to the special study option considered and rejected in the instant Order.

[42] *See* USTA Reply at 3.

[43] *See* Federal Communications Commission, 1996 ARMIS 43-01 Reports, Rows 1090 and 1190. We recognize that the reported RBOC and GTE data do not include billing and collection revenue and expense amounts for all LECs now subject to price cap regulation. Because, however, the BOCs and GTE constitute a significant majority of the current price cap LECs and the only LECs subject to price cap regulation since its inception, we use the RBOCs and GTE as surrogates for all price cap LECs in this instance.

[44] MCI Petition for Reconsideration (filed May 1, 1997) of *OB&C Order*, pp. 1, 3-4.

can change the Part 69 allocation of GSF costs without prejudice to any actions we may take on MCI's objections to the Part 36 rules. We also agree with AT&T and MCI that we need not defer action on these Part 69 allocation issues pending Commission action in the separations reform proceeding or any other joint board proceeding, because our concerns and related proposals are narrow and limited to the interstate jurisdiction.

21. We are not persuaded by BellSouth's claim that our current Part 69 rules over-allocate costs to the nonregulated B&C category.[45] BellSouth fails to support such claims with data demonstrating the level of such allocations that allegedly would be appropriate or the extent to which its actual allocations to that category have exceeded appropriate levels. Nor does BellSouth point to any provision of Part 69 that assigns to the billing and collection category costs that are not related to that activity.

22. Accordingly, we find that a significant problem continues to exist with regard to LEC allocation of GSF costs attributable to nonregulated billing and collection activities, that the earlier orders cited by commenters do not foreclose action at this time, that we need not defer action to any pending proceedings, and that correction of these allocation problems at this time would be in the public interest.

C. Cost Allocation Methods

1. <u>Comments on use of special studies</u>

23. None of the parties supports the use of special studies to correct the misallocation of GSF costs related to general purpose computers. Sprint states that, while use of special studies may be more accurate, the required studies are time consuming to perform and require additional oversight to ensure accuracy.[46] Several commenters state their concern that use of special studies could vest excessive discretion in the LECs.[47] Frontier states that employment of cost allocation manuals (CAMs) with related certification and audit procedures might effectively limit such discretion, but observes that such additional procedures also would impose added costs on LECs and that such cost concerns should not be overlooked.[48] AT&T contends that, because the CAM process is not "foolproof" and because CAM misallocations may not be uncovered for several years, such requirements may not adequately restrain LEC discretion.[49]

24. Many commenting LECs object to the anticipated cost of conducting special studies.[50] Many commenters also claim that the first option would impose significant administrative and

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[45] BellSouth Comments at 6; BellSouth Reply at 2.

[46] Sprint Comments at 4.

[47] Frontier Comments at 5; AT&T Comments at 10; AT&T Reply at 9.

[48] Frontier Comments at 5.

[49] AT&T Comments at 10.

[50] USTA Comments at 4; USTA Reply at 2; BA/NYNEX Comments at 6; and Frontier Comments at 5. *See also* AT&T Comments at 10, AT&T Reply at 9 (finding commenter consensus that these studies are costly.)

regulatory burdens on LECs.[51] USTA and Ameritech challenge the Commission's assumption that the additional costs and other burdens of conducting special studies of the general purpose computer account (Account 2124) would not be significant because LECs likely conduct studies of this and other accounts already.[52] In addition, Ameritech argues it would be inappropriate for LECs to employ "Part 64" special studies to determine the Part 69 allocation of amounts that have already flowed through the Part 64 process.[53] BA/NYNEX contends employment of such studies would likely result in significantly different allocations among the LECs.[54] CBT claims employment of the special study option would require semi-annual studies that would be particularly burdensome for smaller price cap LECs like CBT.[55] Because improved allocation of GSF costs would result only in an "insignificant" reduction in access rates, CBT contends that the benefits of such studies would be outweighed by the burdens of conducting them.[56]

2. Comments on use of general expense allocator

25. Both AT&T and MCI support use of a general expense allocator to allocate a more appropriate level of GSF costs to the billing and collection category.[57] AT&T supports use of the modified Big Three Expense Factor general allocator because it is "straightforward" and simple to administer and because, in AT&T's view, it cannot be manipulated by the LEC.[58] Of the two options, SNET finds this general allocator option to be less burdensome for LECs and, hence, more desirable.[59]

26. Opponents of the general expense allocator option claim that its use would disrupt existing GSF allocations among the access and interexchange categories by changing the allocation of many costs not associated with the B&C category.[60] For example, BA/NYNEX states that use of a Big Three Expense Factor allocator would inappropriately allocate GSF investments other than investment

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51 USTA Comments at 4; USTA Reply at 2; SNET Comments at 6; BellSouth Comments at 6; SWB Comments at 6; and SNET Comments at 6. *See also* AT&T Reply at 9 (supporting consensus that special studies are burdensome on LECs).

52 USTA Comments at 4 (noting LECs not currently required to perform any special studies of Account 2124); Ameritech Comments at 6 (explaining that Ameritech apportions general purpose computer costs on the basis of salary and wages).

53 Ameritech Comments at 6.

54 BA/NYNEX Comments at 6; BA/NYNEX Reply at 8-9.

55 CBT Comments at 3.

56 *Id.* at 3. *Accord* GTE Comments at 7-8.

57 AT&T Comments at 10; MCI Comments at 15.

58 AT&T Comments at 10 (noting a Big Three Expense allocator is used in the Part 36 separations rules to allocate GSF costs to the interstate jurisdiction).

59 SNET Comments at 6.

60 BellSouth Comments at 7; BA/NYNEX Comments at 6-7; BA/NYNEX Reply at 9. *Accord* GTE Reply at 4. *See also* USTA Comments at 4; CBT Comments at 3; GTE Comments at 6-8; BellSouth Reply at 2.

in general purpose computers to B&C, because Account 2110 not only includes Account 2124, General purpose computers, but also incorporates Accounts 2111 through 2123, which include items such as motor vehicles, garage equipment, and aircraft.[61] BellSouth argues use of such a broad general allocator to allocate an equally broad category of costs cannot be justified given the large size of existing Part 69 allocations to the billing and collection category.[62] SWB opposes the general allocator option because, in its view, it would result in non-cost causative allocations of investment and expenses to the B&C category.[63]

27. U S West proposes initial application of the allocation factor to Account 2124 instead of Account 2110, with the remainder of Account 2110 to be apportioned to the access elements and the interexchange category using the current investment allocator.[64] U S West claims its proposal ensures allocation of computer investment to the B&C category while preventing significant dislocations of investment among the access, B&C, and interexchange categories.[65] Ameritech offers the same proposal in the event the Commission elects to change the rules.[66] Sprint supports the Commission's second option but, like U S West and Ameritech, recommends that application of the allocator be limited to Account 2124 (General purpose computers) only, rather than applied to all GSF accounts.[67]

28. USTA offers a similar alternative to the Commission's general expense allocator option in the event such an approach is adopted.[68] USTA proposes that the ratio of the net investment in Account 2124 to the net investment in Account 2110 be used to identify the general purpose computer investment represented in the interstate portion of Account 2110. That interstate investment would be allocated to the B&C category using a slightly modified "Big Three Expense" factor.[69] The remainder

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61 BA/NYNEX Comments at 6-7.

62 BellSouth Comments at 7; BellSouth Reply at 2. *Accord* Sprint Comment at 4 (contending such an allocator would "grossly" over-allocate costs to the billing and collection category which, in turn, would cause an inappropriate reduction in access charge rates).

63 SWB/PNB Comments at 6.

64 Once an appropriate part of the interstate investment in Account 2124 is allocated to the billing and collection category, a secondary allocation of interstate GSF expenses would channel an appropriate share of such expenses to that category. U S West Comments at 6-7.

65 U S West Comments at 6-7, Ameritech Comments at 7 (adding that because it is the under- allocation of general purpose computer investment that is the source of the current under-allocation, it is that account that should be the focus of reallocation efforts).

66 Ameritech Comments at 7-8; Ameritech Reply at 2.

67 Sprint Comments at 4.

68 USTA Comments at 5. BA/NYNEX offers a similar alternative to the Commission's second option. BA/NYNEX Comments at 7. We consolidate these approaches and refer to them as the USTA proposal.

69 Under USTA's proposal, general purpose computer investment would be apportioned on the basis of the Big Three Expense allocator, modified to exclude expenses that are apportioned on the basis of allocators that include GSF investment. USTA Comments at 5.

of Account 2110 would be allocated to all other elements using the current investment allocator.[70]

29. USTA supports this alternative because it uses data currently available to LECs, avoids changes to other, unrelated access elements, and retains traditional Part 69 reliance on Class B Accounts.[71] Several LECs conditionally support USTA's proposal as an acceptable alternative.[72] SNET also supports USTA's proposal as the best alternative to promote the proper allocation of GSF investment to the B&C category.[73] BA/NYNEX supports the USTA proposal because it allocates an appropriate amount of general purpose computer investment to the B&C category without causing undesirable secondary shifts or other large disruptions in the allocation of other costs.[74] BA/NYNEX contends that its proposal or USTA's proposal would address IXC misallocation concerns without requiring a "radical permanent change" in the cost allocation rules to rectify what BA/NYNEX terms a "disappearing problem."[75] CBT also supports USTA's proposal because it is simpler than the Commission's second option and because it uses currently available data.[76] GTE alleges that USTA's proposal would provide LECs with a more predictable and workable allocation methodology.[77]

30. AT&T challenges USTA's proposal to use a modified Big Three Expense Factor to allocate only general purpose computer investment and expenses in Accounts 2124 and 6124 (rather than to allocate all of Accounts 2110 and 6120).[78] AT&T contends that investments in land, buildings, office equipment, and their related expenses all support nonregulated billing and collection

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70 USTA Comments at 5.

71 *Id.*; USTA Reply at 2-3. *Accord* BA/NYNEX Comments at 7. USTA explains that the Class B accounting system is maintained by developing appropriate ratios and applying those ratios to the proper Class B accounts, here Account 2110. USTA claims such reliance on Class B accounting is desirable because the LECs develop these ratios on the basis of ledger data that, in USTA's view, cannot be manipulated. USTA Reply at 3 n.7.

72 BA/NYNEX, SNET, and GTE contend no changes are needed in these GSF cost allocation rules but, if such changes are made, they would support USTA's proposal. BA/NYNEX Comments at 7; SNET Comments at 5-7; GTE Comments at 6; GTE Reply at 4-5. USTA and BellSouth similarly contend that either no change is needed or that any such change should be undertaken only in the context of a more comprehensive jurisdictional reform proceeding. Like BA/NYNEX and GTE, however, USTA and BellSouth would support the USTA proposal in the event the Commission changes these rules pursuant to its *Further Notice*. USTA Comments at 4-6; USTA Reply at 2; BellSouth Reply at 3. Similarly, Ameritech is prepared to support the USTA proposal in the event the Commission elects to change these allocation rules and declines to adopt the alternative separately proposed by Ameritech and U S West. Ameritech Reply at 2.

73 SNET Comments at 5-7.

74 BA/NYNEX Comments at 7; BA/NYNEX Reply at 9.

75 BA/NYNEX Reply at 9.

76 CBT Comments at 3.

77 GTE Comments at 9.

78 AT&T Reply at 9.

services and, thus, should be subject to application of the Big Three Expense allocator.[79] AT&T notes that, except for the billing and collection category, all Part 69 access and non-access categories receive an allocation of GSF investment and expenses that support the services in each category. Accordingly, AT&T contends that all GSF investments and expenses that support billing and collection should be removed from the access category and assigned to the non-access billing and collection category.[80] AT&T argues that, contrary to USTA and several LECs, the correct approach remains the Commission's second option, that is, use the Big Three Expense allocator to allocate to the B&C category an appropriate portion of all GSF investment and expenses in Accounts 2110 and 6120, respectively.[81]

31. MCI agrees with AT&T that investments in GSF accounts other than Account 2124 actually are used by LECs to provide nonregulated billing and collection services. MCI recommends that, at a minimum, LECs should be required to apportion GSF costs in Account 2111 (Land), Account 2121 (Buildings), and Account 2123 (Office equipment) as well as Account 2124 (General purpose computers) and allocate them to the B&C category using the modified Big Three Expense allocator.[82]

32. SWB asserts both proposed allocation methods are "perverse" because, regardless of the option selected, the Commission would continue to separate total GSF investment between the state and interstate jurisdictions based upon a single expense allocator and then proceed to segregate the interstate portion of that investment between regulated and nonregulated categories on the basis of an allocator unrelated to either the earlier jurisdictional allocation or the categorization analysis.[83]

3. Discussion

33. Based upon our review of the two options proposed in the *Further Notice* and the various revisions to those options proposed in the comments, we adopt with some modifications our second proposed option. As between the special study method and the general expense allocator method, we find that use of a general expense allocator is superior to the use of special studies to ensure an appropriate allocation of GSF costs to the B&C category. The record is persuasive that adoption of a special studies method would impose significant burdens on the LECs that would perform these studies. Furthermore, special studies could impose major new burdens on the access customers and regulators who would review and analyze the results of the studies. Over time, the Commission has accepted a wide variety of allocation techniques for apportionment of unseparated Account 2124

79 *Id.* at 9 (*citing Access Reform Order*, paras. 326-328, and *Further Notice* for expression of Commission's concern that "general support facilities" (not some subset of those facilities) were misassigned).

80 *Id.* at 10 n.16.

81 *Id.* at 10.

82 MCI Reply at 5.

83 SWB/PNB Reply at 2.

investment between regulated and unregulated activities pursuant to Part 64 of the Rules.[84] If each LEC were to use its own Part 64 study techniques to determine allocations under Part 69, we would be faced with reevaluating each of those techniques to determine whether it produced reasonable results when applied to separated, interstate investment. The fact that incumbent LECs have performed Part 64 studies of general purpose computer costs, therefore, does not necessarily mitigate the administrative burdens associated with using special studies to allocate these costs for Part 69 purposes. Accordingly, we find that the costs inherent in the use of special studies to assign a portion of GSF costs to nonregulated billing and collection activities are not justified, given that there is a simpler, less costly method available that will achieve the same goal.

34. The second option in the *Further Notice* proposed, in general, that price cap LECs use a modified Big Three Expense Factor to allocate an appropriate part of the interstate portions of Account 2110 (Land and support assets) to the billing and collection category. Also, under the proposal in the *Notice*, GSF expenses would continue to be allocated pursuant to section 69.401.[85] U S West and others propose to apply the expense allocator only to the interstate portion of Account 2124 (General purpose computers).[86] Under USTA's proposal, a net investment ratio derived from Account 2124 would be used to identify general purpose computer investment in Account 2110.[87] Under MCI's proposal, the general expense allocator would be applied not only to the interstate portions of Account 2124 but also to the interstate portions of Accounts 2111, 2121, 2123.[88]

35. We find that the alternative to the second option, proposed by MCI, appropriately would allocate to the LECs' B&C category the GSF costs attributable to such activities. Though MCI seeks application of the general expense allocator to four accounts "at a minimum," we are not persuaded that application of this allocator to accounts other than those four would produce a more accurate and reliable allocation of GSF costs between the regulated and nonregulated categories because these other accounts do not appear related to the LECs' billing and collection operations.[89] We find the

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84 For example, where general purpose computers are used for both regulated and nonregulated activities, both Ameritech and GTE apportion the related computer investment in Account 2124 on the basis of their respective total company wages and salaries. Ameritech Cost Allocation Manual (rev. Dec. 31, 1996), p. VI-26, and GTE Cost Allocation Manual (rev. Dec. 31, 1996), p. VI-40. Where Pacific Bell uses general purpose computers for both regulated and nonregulated billing activities, it allocates the related computer investment in Account 2124 on the basis of the ratio between the number of nonregulated bill records and the total number of bill records. Pacific Bell Cost Allocation Manual (rev. Dec. 31, 1995), p. VI-18.

85 *Further Notice*, para. 417.

86 U S West Comments at 6. Ameritech and Sprint make similar proposals. Ameritech Comments at 7; Sprint Comments at 4.

87 USTA Comments at 5.

88 MCI Reply at 5.

89 For example, though investment in motor vehicles (Account 2112), aircraft (Account 2113), and garage work equipment (Account 2115) might in some instances contribute to a given LEC's nonregulated billing and collection operations, we do not find such connection sufficiently obvious to require all price cap LECs to apply the expense allocator to them to improve the allocation of costs to the nonregulated B&C category. *See* BA/NYNEX Comments at 6-7.

Commission's original expense allocator proposal was too broad. Although that option clearly would provide, for the first time, for some allocation of Account 2110 (and indirectly Account 6120) GSF costs to the B&C category, implementation of that option also would assign to the B&C category costs that appear largely unrelated to billing and collection.[90] Similarly, we find USTA's proposal and the proposal of U S West to be too narrow because they ignore GSF costs that clearly are related to billing and collection, such as land, buildings, and office equipment.[91] Accordingly, we find that the second option as modified will cause an appropriate portion of GSF costs to be allocated to the B&C category without imposing unwarranted cost and other burdens on those LECs subject to price cap regulation. Section 69.401 will continue to apply to the allocation of GSF expenses, and will result in assignment of a reasonable level of GSF expense to the B&C category.

D. Exogenous Treatment and Other Issues

1. Comments

36. AT&T, MCI, and Frontier support the proposed downward exogenous adjustments for LECs making these reallocations.[92] In addition, MCI notes that in the *GSF Allocation Order,* this Commission concluded it was appropriate to allow price cap LECs to treat as exogenous the reallocation of GSF costs among Part 69 categories.[93]

37. MCI contends that, under the earlier cost-of-service system of price regulation, any change in GSF costs that resulted from a decline in the size of a LEC's billing and collection operations would translate into a reduced revenue requirement and lower rates for interstate access services. Under price cap regulation, however, MCI claims that misallocation of GSF costs is potentially a permanent problem because current price cap rates reflect historically misassigned costs. For this reason, MCI contends that this Commission must impose an exogenous cost reduction to ensure that the PCIs in the future do not allow the LECs to maintain unreasonably high rates.[94] Even if price cap LECs no longer provide any billing and collection services to IXCs, MCI argues that such an exogenous reduction remains necessary to mitigate the impact of earlier misallocated GSF costs.[95]

38. BA/NYNEX disagrees with MCI, asserting that under cost-of-service regulation, a decline in LEC billing and collection revenues would cause an increase in rates, because the reduction in the billing and collection allocator would shift GSF costs back to interstate access charges. BA/NYNEX contends that, if the Commission had elected to change the GSF cost allocation rules under cost-of-

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[90] *See* n. 89, *supra.,* for examples of such unrelated costs.

[91] As MCI notes, implementation of this option would ignore three other accounts that contribute to nonregulated billing and collection activities: Account 2111 (land), Account 2121 (Buildings), and Account 2123 (Office equipment). MCI Reply at 5.

[92] AT&T Reply at 7-9; MCI Comments at 12; MCI Reply at 3; and Frontier Comments at 5.

[93] MCI Reply at 7 (*citing* Amendment of the Part 69 Allocation of General Support Facilities Costs, 8 FCC Rcd 3697, 3701 n.54 (1993) (*GSF Allocation Order*)).

[94] *Id.* at 6.

[95] *Id.* at 3.

service regulation, that change would have caused only a temporary reallocation of GSF costs to the B&C category and only a temporary reduction in access charges. As the IXCs took back billing and collection operations from the LECs, the GSF costs would have been reallocated to access in subsequent annual access tariff filings, and access charges would have increased. This would have occurred, according to BA/NYNEX, because a reduction in billing and collection operations has no appreciable effect on GSF costs. The costs associated with land, buildings, vehicles, furniture, and even most of the capacity of the general purpose computers, do not decline as the LECs lose their billing and collection business, according to BA/NYNEX.[96]

39. BA/NYNEX contends that, today, under price cap regulation, a permanent change in the GSF allocator could have a permanent and inappropriate impact on the revenues of price cap LECs if the Commission also requires such LECs to make a related exogenous reduction in their PCIs. An exogenous reduction to account for the earlier costs of providing such services would not be appropriate, according to BA/NYNEX, because these PCIs would not be increased in the future as the level of these LECs' billing and collection activities and related costs declined. BA/NYNEX also opposes such an exogenous reduction because, notwithstanding the continuing decline in LEC billing and collection revenues, these LECs continue to incur similar GSF costs because the land, buildings, and other assets remain in use for activities unrelated to billing and collection. For these reasons, BA/NYNEX contends it would not be reasonable to require price cap LECs to make the proposed downward exogenous adjustment.[97]

40. Many commenting LECs oppose as unnecessary any downward exogenous adjustments to their PCIs to account for the reallocation of GSF costs to the billing and collection category. For example, while Ameritech does not object to the reallocation if properly done, Ameritech submits that no downward adjustment to PCIs associated with interstate rates should result from such reallocation. Ameritech argues that this cost change, like the change in the booking of other post-employment benefits (OPEB) expenses, is a non-economic cost change that should not be given "exogenous" PCI treatment.[98]

41. AT&T characterizes Ameritech's argument as "nonsense." AT&T argues that GSF is a "real" cost that currently is improperly recovered through access charges, contrary to the Commission's explicit goal of preventing carriers from using their regulated services to support their nonregulated operations.[99]

42. MCI also disputes Ameritech claims that the reassignment of GSF costs to the billing and collection category is a "non-economic" cost change that should not be given exogenous treatment, and challenges Ameritech's analogy to the introduction of accrual accounting for OPEB

96 BA/NYNEX Reply at 6.

97 *Id.* at 7.

98 Ameritech Comments at 4 (*citing* Price Cap Performance Review for Local Exchange Carriers, CC Docket No. 94-1, First Report and Order, 10 FCC Rcd 8961, 9089-9098, paras. 292-313 (*Price Cap Review Order*)); Ameritech Reply at 3.

99 AT&T Reply at 8.

expenses for which the Commission denied exogenous cost treatment.[100] MCI contends that the proposed cost allocation rule qualifies for exogenous treatment because it does not, as in the case of OPEB expenses, simply alter the timing of the recognition of costs on the LECs books. Instead, the proposed rule change recognizes that certain costs currently assigned to the access categories do not, in fact, represent investment or expenses in providing access services.[101]

2. Discussion

43. We require price cap LECs to make appropriate downward exogenous PCI adjustments and related changes in their price cap baskets to reflect the reduction in GSF cost allocations to access elements and the interexchange category and to increase allocation of GSF costs to the billing and collection category as a result of the Part 69 changes adopted this Order.

44. Current PCIs allow recovery through rates for regulated interstate services of GSF costs that support the nonregulated billing and collection activity because Part 69 assigned those costs to regulated access elements under cost-of-service regulation. The rates thus established under the cost-of-service regime became the basis on which the PCIs were initialized when each LEC became subject to price cap regulation. The only way to relieve access customers and consumers of long distance telephone service of this burden is to require an exogenous adjustment to PCIs that reflects the reallocation of GSF costs pursuant to the rule we adopt herein. Absent an exogenous adjustment, the reallocation of costs will have no rate impact at all, except in those unusual individual instances in which the removal of a portion of investment from the regulated rate base would increase measured regulated earnings and make a low-end adjustment unavailable to a carrier with earnings close to the 10.25 per cent level. Also, absent such an adjustment, price cap carriers would effectively continue to recover these nonregulated costs through their regulated access charges even though these costs have been reassigned to the nonregulated services.

45. We reject the claim of BA/NYNEX that historical and future declines in the provision of billing and collection services effectively eliminate the need for any downward exogenous adjustments because the costs of such services are becoming smaller components of price cap LECs' GSF costs. GSF costs have been under-allocated to the B&C category ever since 1988 when we implemented the current Uniform System of Accounts and made conforming changes to the separations manual and Part 69 cost allocation rules. This under-allocation was reflected in the rates of these companies before each entered price cap regulation, became embedded in their initial PCIs, and is preserved in current PCIs.

46. We also reject BellSouth's claim that it would be inappropriate to require price cap LECs to make an exogenous PCI adjustment to offset the earlier misallocation of billing and collection service costs because such an adjustment would continue to constrain the rates of price cap LECs even after they ceased to provide such services. We did not propose, and no party has suggested, a retroactive adjustment to the LECs' PCIs in prior years in order to return to ratepayers amounts they would not have paid in the past if the Commission had allocated these costs correctly. We find it appropriate, however, to revise Part 69 to ensure that GSF costs associated with billing and collection service at today's usage levels are allocated to the B&C category, and to require that price cap LECs subject to this Order adjust their PCIs so future ratepayers will benefit from this Order and will not

[100] MCI Reply at 6.

[101] *Id.* at 6-7.

continue to pay higher access rates because of the misallocation of costs to access rate elements that occurred before these LECs became subject to price cap regulation. Furthermore, it is entirely appropriate that a LEC's access rates remain at the new, lower levels even if in the future it no longer provides nonregulated billing and collection services. Under Part 64, investment, once assigned to nonregulated activities, may not be reallocated subsequently to regulated activities, absent specific permission by the Commission.[102] This rule protects ratepayers against the risk of incurring the costs of failed nonregulated ventures. The same principles should apply to investment associated with billing and collection services. We find, therefore, such an exogenous adjustment to be necessary regardless of whether price cap LECs continue to provide nonregulated billing and collection services.

47. We reject the claim of Ameritech that our reallocation of GSF costs should not be given exogenous treatment because those costs are "non-economic." Our finding that the current Part 69 rules misallocate GSF costs between regulated interstate services and nonregulated billing and collection services constitutes a finding about the economic costs of regulated service: those economic costs are lower than we previously deemed them to be. Our change to the Part 69 rules governing allocation of GSF investment and expense is thus not analogous to a change in accounting rules that does not affect economic cost. It is, rather, analogous to a reallocation of joint and common investment from regulated to nonregulated activities pursuant to Part 64. Such a reallocation must always be reflected in exogenous adjustments to PCIs, pursuant to Commission rule.[103]

48. For these reasons, we require each price cap LEC that uses regulated assets to provide nonregulated billing and collection services to make a downward exogenous adjustment to its January 1, 1998, PCIs and related indices. Adjustments should be based on 1996 ARMIS data, which is the most recent reported data. Adjustments should reflect the allocation of GSF costs to the access elements and the interexchange category that would have been reported in 1996 ARMIS reports if the rule adopted in this Order had been in effect on January 1, 1996. By making this change to these price cap LECs' 1998 PCIs, we can eliminate most of the impact of the GSF cost misallocations on each of these LECs' current PCIs so that prospectively these costs are not recovered from interstate access ratepayers. We could require each price cap LEC subject to this Order to make this exogenous adjustment on the basis of an analysis of the misallocation made in the year just prior to its entry into price cap regulation. We decline to impose such a requirement because most price cap LECs initiated participation in price cap regulation at the beginning of 1991, and a comparison of these LECs' 1990 total billing and collection operating expenses with similar data for 1996 does not disclose enough of a difference to warrant such a requirement.[104] We also find that using 1996 ARMIS data would be simpler and more uniform for price cap LECs subject to this Order. No party urged use of earlier data to make this exogenous adjustment.

49. We therefore require those price cap LECs that use regulated assets to provide nonregulated billing and collection services to IXCs to make certain exogenous adjustments to their

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102 *Joint Cost Order,* 2 FCC Rcd at 1320, para. 172.

103 *See* Section 61.45(d)(1)(v) of the Commission's Rules, 47 C.F.R. § 61.45(d)(1)(v). *See also Price Cap Review Order,* 10 FCC Rcd at 9069-9073, paras. 245-256 (1995) (explaining why a reduction in PCIs to ensure than an earlier error in setting the price cap LECs' productivity factor does not lead to unreasonably high rates in the future).

104 The RBOCs and GTE reported total billing and collection operating expenses of about $469 million in 1990 and $439 million in 1996. *See* 1990 and 1996 ARMIS 43-01 Reports.

PCIs and related indices. Such adjustment filings shall be made in the access reform tariffs scheduled to become effective January 1, 1998.[105] For each price cap LEC subject to this Order, the exogenous change shall be based upon the increase, if any, in that LEC's 1996 allocation of costs to the nonregulated billing and collection category from the following accounts that would have occurred if the change to Part 69 adopted herein had been in effect on January 1, 1996: Account 2111 (Land), Account 2121 (Buildings), Account 2123 (Office equipment), and Account 2124 (General purpose computer). This exogenous cost change must reflect each LEC's new revenue requirement, include all effects arising from this increased allocation to the nonregulated billing and collection category, and must be based on an 11.25 per cent return on capital investment. The exogenous adjustment shall not be targeted to any particular price cap basket.

50. Finally, as proposed in the *Further Notice*, we limit application of this proceeding to price cap LECs. GSF allocations by non-price cap LECs will be addressed separately.

III. PROCEDURAL MATTERS

A. Final Regulatory Flexibility Act Analysis and Certification

51. In the *Further Notice*, the Commission noted that its proposals regarding the allocation of General Support Facilities (GSF) costs would, if adopted, affect all LECs that are regulated by the Commission's price cap rules.[106] In the *Further Notice*, the Commission tentatively concluded that all price cap carriers[107] have more than 1500 employees and, therefore, that those carriers are not small entities.[108] The Commission also stated that it planned to limit the scope of its proposal to incumbent price cap LECs and, thus, that these proposals would not affect small entities. The Commission sought comment on these proposals and tentative conclusions. No comments were received specifically concerning the conclusion that price cap carriers were not small entities or the limitation of the proposed rules to such carriers. One comment, however, was received concerning the impact on smaller carriers of the special study option.[109] That option was not adopted in this Order. Given this comment and for the reasons described in the *Further Notice* and this Order, we certify that the rules adopted herein will not have a significant economic impact on a substantial number of small entities. This certification conforms to the Regulatory Flexibility Act ("RFA"), as amended by the

[105] *See, e.g., Access Charge Reform Order*, paras. 208, 217, 219, and 220.

[106] *Further Notice*, para. 449.

[107] As of this date, fourteen LECs are subject to price cap regulation.

[108] The Commission noted that the Small Business Administration has defined a small business for Standard Industrial Classification (SIC) category 4813 (Telecommunications, Except Radiotelephone) to be a small entity that has no more than 1500 employees. *Further Notice*, para. 448.

[109] CBT Comments at 3. CBT objects to the Commission's proposal to require price cap LECs to complete special studies of certain GSF cost accounts in order more accurately to allocate those accounts between the nonregulated billing and collection category and the regulated access elements. CBT claims such studies would be rather burdensome on smaller price cap LECs, such as CBT, because those studies would have to be repeated by the LEC every six months.

Small Business Regulatory Enforcement Fairness Act of 1996.[110]

B. Paperwork Reduction Act

52. The information collection requirements in this item are contingent upon approval of the Office of Management and Budget (OMB). In addition, in the course of preparing this Order, we recognized that one of the information collection requirements proposed in the *Further Notice* would need to be modified. To address the misallocation of GSF costs, the *Further Notice* identified procedures to determine the amount of a given incumbent LEC's misallocation of these costs and proposed employment of a mandatory exogenous cost adjustment to mitigate the adverse impact of such misallocation.

53. Because we adopt a modified version of the second proposed option, the general allocator option, we have reexamined that option and concluded that this mandatory exogenous adjustment constitutes a new "collection of information," within the meaning of the Paperwork Reduction Act of 1995, 44 U.S.C. §§ 3501-3520. Because we want this modification of our Rules to become effective December 17, 1997, and because this modification is subject to OMB approval, we have requested emergency OMB approval of this modification to ensure that the modification can become effective on that date. We want this modification of our Rules to become effective by that date so that, where required, price cap LECs will include these exogenous cost adjustments in their access reform tariffs to become effective January 1, 1998.[111]

IV. ORDERING CLAUSES

54. Accordingly, IT IS ORDERED, pursuant to Sections 1-4, 201-205, 218, 220, and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151-154, 201-205, and 303(r) that this Third Report and Order IS ADOPTED.

55. IT IS FURTHER ORDERED that the provisions in this Order will be effective December 17, 1997. Although this date is less than thirty days after publication of the rule in the Federal Register, we find good cause under 5 U.S.C. § 553(d)(3) to make the rule effective less than thirty days after publication, because local exchange carriers subject to price cap regulation must file access reform tariffs no later than December 17, 1997, in order for them to be effective by January 1, 1998.[112] In addition, to ensure that the local exchange carriers subject to price cap regulation have actual notice of this rule immediately following its release, we are serving those entities by overnight mail. The collections of information contained within are contingent upon approval by the Office of Management and Budget.

56. IT IS FURTHER ORDERED that, for local exchange carriers subject to price cap regulation making tariff revisions pursuant to this Order, prior to December 17, 1997, to become effective January 1, 1998, Sections 61.58 and 61.59 of the Commission's rules, 47 C.F.R. §§ 61.58 and 61.59, ARE HEREBY WAIVED. For these purposes, affected local exchange carriers shall cite

[110] The RFA, 5 U.S.C. §§ 601 *et seq.*, has been amended by the Contract with America Advancement Act of 1996, Pub. L. No. 104-121, 110 Stat. 847 (1996) (CWAAA). Title II of the CWAAA is the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA).

[111] *See* n. 105, *supra*.

[112] *Id.*

the "FCC" number of this Order as the authority for making such filings.

57. IT IS FURTHER ORDERED, that 47 C.F.R., Part 69, IS AMENDED as set forth in Appendix B, effective December 17, 1997.

58. IT IS FURTHER ORDERED, that the Commission's Office of Managing Director SHALL SEND a copy of this Third Report and Order, including the Final Regulatory Flexibility Act Analysis and Certification, to the Chief Counsel for Advocacy of the Small Business Administration.

FEDERAL COMMUNICATIONS COMMISSION

Magalie Roman Salas

Magalie Roman Salas
Secretary

APPENDIX A

List of Parties Filing Comments

Initial Comments

Ad Hoc Telecommunications Users Committee (Ad Hoc)
America Online, Inc. (America Online)
American Petroleum Institute (API)
Ameritech Operating Companies (Ameritech)
AT&T Corp. (AT&T)
Bell Atlantic Telephone Companies, New York Telephone Company, and New England Telephone and Telegraph Company (BA/NYNEX)
BellSouth Corporation and BellSouth Telecommunications Inc. (BellSouth)
Cincinnati Bell Telephone Company (CBT)
Competitive Telecommunications Association (CompTel)
Frontier Corporation (Frontier)
GTE Service Corporation and affiliated telephone operating companies (GTE)
Information Technology Association of America and Internet Access Coalition (ITAA/IAC)
MCI Communications Corporation (MCI)
The Southern New England Telephone Company (SNET)
Southwestern Bell Telephone Company, Pacific Bell, and Nevada Bell (SWB/PNB)
Sprint Corporation (Sprint)
United States Telephone Association (USTA)
U S West, Inc. (U S West)
WorldCom, Inc. (WorldCom)

Reply Comments

Ad Hoc
Ameritech
AT&T
BA/NYNEX
BellSouth
GTE
MCI
Sprint
SWB/PNB
USTA

APPENDIX B -- Final Rule

Part 69 -- ACCESS CHARGES

1. The authority citation for Part 69 continues to read as follows:

Authority: 47 U.S.C. §§ 154(i) and (j), 201, 202, 203, 205, 218, 254, and 403.

2. Section 69.307(c)is revised to read as follows:

(c) For all local exchange carriers not subject to price cap regulation and for other carriers that acquire all of the billing and collection services that they provide to interexchange carriers from unregulated affiliates through affiliate transactions, from unaffiliated third parties, or from both of these sources, all other General Support Facilities investments shall be apportioned among the interexchange category, the billing and collection category, and Common Line, Local Switching, Information, Transport, and Special Access elements on the basis of Central Office Equipment, Information Origination/Termination Equipment, and Cable and Wire Facilities, combined.

3. Section 69.307(d) is added to read as follows:

(c) For local exchange carriers subject to price cap regulation and not covered by Section 69.307(c), a portion of General purpose computer investment (Account 2124), investment in Land (Account 2111), Buildings (Account 2121), and Office equipment (Account 2123) shall be apportioned to the billing and collection category on the basis of the Big Three Expense Factors allocator, defined in Section 69.2 of this Part, modified to exclude expenses that are apportioned on the basis of allocators that include General Support Facilities investment. The remaining portion of investment in these four accounts together with all other General Support Facilities investments shall be apportioned among the interexchange category, the billing and collection category, and Common Line, Local Switching, Information, Transport, and Special Access Elements on the basis of Central Office Equipment, Information Origination/Termination Equipment, and Cable and Wire Facilities, combined.